

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHARLES MCCOY)
a/k/a CHUCK MCCOY,)
Petitioner,) Civil Action No. 04 - 1638
v.) Judge Joy Flowers Conti /
COMMONWEALTH OF) Magistrate Judge Lisa Pupo Lenihan
PENNSYLVANIA ,)
Respondent.)

MEMORANDUM ORDER

The above captioned Petition was received by the Clerk of Court on October 26, 2004, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge filed a Report and Recommendation (Doc. No. 15) on March 7, 2006, that recommended the Petition for Writ of Habeas Corpus be denied because Petitioner had failed to state a claim upon which this court can grant habeas corpus relief under 28 U.S.C. § 2241. Petitioner filed Objections to the Report and Recommendation (Doc. No. 16) on March 20, 2006. After a review of the pleadings and the documents in the case, together with the report and recommendation and objections thereto, the case was remanded to the Magistrate Judge to determine whether the objections had merit. Specifically, the Court wanted the issue of Petitioner's due process claims to be addressed. The Magistrate then issued a Supplemental Report and Recommendation (Doc. No. 20) on May 17, 2006 recommending that the Petition for

Writ of Habeas Corpus (Doc. No. 6) be denied and that a certificate of appealability be denied. Service was made on Petitioner at the Mayo Correctional Institute, 8784 US Highway, 27 West, Mayo, Florida 32066 and on counsel of record for Respondents. The parties were informed that in accordance with Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, that they had ten (10) days to file any objections. Petitioner filed Objections to the Supplemental Report and Recommendation on March 20, 2006 (Doc. No. 23) on June 26, 2006. After a second review of the pleadings and the documents in the case, together with the report and recommendation the supplemental report and recommendation and objections thereto. Therefore, the following order is entered:

AND NOW, this 19th day of July, 2006;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (Doc. No. 6) is **DENIED**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 15) dated March 7, 2006 and the Supplemental Report and Recommendation (Doc. No. 20) of Magistrate Judge Lenihan, dated May 17, 2006, are adopted as the opinion of the Court.

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: The Honorable Lisa Pupo Lenihan
United States Magistrate Judge

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